

立法會
Legislative Council

LC Paper No. CB(2)987/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 21st meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 12 April 2013**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)
Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon LEUNG Yiu-chung
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon LEUNG Ka-lau
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Hon Claudia MO
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon LEE Cheuk-yan
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon Albert CHAN Wai-yip
Hon Michael TIEN Puk-sun, BBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Kenneth LEUNG
Dr Hon Helena WONG Pik-wan
Hon TANG Ka-piu

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mrs Justina LAM	Deputy Secretary General
Mr Andy LAU	Assistant Secretary General 1
Miss Odelia LEUNG	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Carrie WONG	Assistant Legal Adviser 4
Mr YICK Wing-kin	Assistant Legal Adviser 8
Miss Evelyn LEE	Assistant Legal Adviser 10
Mr Stephen LAM	Assistant Legal Adviser 11
Miss Josephine SO	Senior Council Secretary (2)2
Mr Jove CHAN	Senior Council Secretary (2)6
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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I. Confirmation of the minutes of the 20th meeting held on 22 March 2013
(*LC Paper No. CB(2)932/12-13*)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on his meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

(a) **Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)**

Education (Amendment) Bill 2013

(LC Paper No. LS37/12-13)

3. At the invitation of the Chairman, Legal Adviser ("LA") said that the Bill sought to amend the Education Ordinance (Cap. 279) and its subsidiary legislation to provide protection to the Grant School Provident Fund ("GSPF") and Subsidized School Provident Fund ("SSPF") contributors of their benefits in the GSPF and SSPF in case of bankruptcy. LA further said that the proposed amendments were made following the recommendation of the Court in a bankruptcy case concerning a subsidized school teacher that serious consideration be given to amending the law to extend the protection of retirement benefits in the event of bankruptcy to teachers in grant schools and subsidized schools so that they would enjoy the same protection as teachers in government schools under the Pensions Ordinance (Cap. 89) or Pensions Benefits Ordinance (Cap. 99) and to the majority of the workforce under the Mandatory Provident Fund Schemes Ordinance (Cap. 485) in the event of bankruptcy. LA added that the Panel on Education had been consulted on 11 December 2012 and members in general supported the legislative proposal.

4. Mr SIN Chung-kai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Ms Cyd HO, Ms Starry LEE, Dr Kenneth CHAN, Dr Helena WONG (as advised by Mr SIN Chung-kai) and Mr IP Kin-yuen.

(b) **Legal Service Division report on subsidiary legislation gazetted on 22 March 2013 and tabled in Council on 27 March 2013**

(LC Paper No. LS34/12-13)

5. At the invitation of the Chairman, LA said that seven items of subsidiary legislation were gazetted on 22 March 2013 and tabled in the Council on 27 March 2013.

6. Regarding the Companies (Revision of Financial Statements and Reports) Regulation (L.N. 34) and the Companies (Disclosure of Information about Benefits of Directors) Regulation (L.N. 35), which were the second batch of subsidiary legislation made under the new Companies Ordinance, LA informed Members that they were being

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scrutinized by the Subcommittee formed by the House Committee ("HC") on 8 February 2013 to study the subsidiary legislation made under the new Companies Ordinance. The Subcommittee had met on 9 April 2013 and started the scrutiny of these two items of subsidiary legislation and its next meeting would be held on 16 April 2013. LA added that Members who wished to join the Subcommittee at this stage should make their application for membership in accordance with the relevant provisions in the House Rules.

7. Members did not raise any question on the other five items of subsidiary legislation (i.e. L.N. 36 to L.N. 40).

8. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 24 April 2013, or 15 May 2013 if extended by a resolution of the Council.

IV. Legal Service Division report on subsidiary legislation gazetted on 5 April 2013

(LC Paper No. LS35/12-13)

9. At the invitation of the Chairman, LA said that two items of subsidiary legislation, i.e. the Frontier Closed Area (Amendment) Order 2013 (L.N. 49) and the Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013 (L.N. 50), were gazetted on 5 April 2013 and would be tabled in the Council on 17 April 2013.

10. LA further explained that both L.N. 49 and L.N. 50 were made under the Public Order Ordinance (Cap. 245) to implement the second phase of the reduction of the coverage of the Frontier Closed Area ("FCA"). L.N. 49 was to specify the boundary of FCA after completion of the construction of secondary boundary fence between the Lok Ma Chau Boundary Control Point and River Indus (Ng Tung River), whereas L.N. 50 was to introduce consequential amendments to the corresponding references to FCA in the principal Notice. Both items of subsidiary legislation would come into operation on 10 June 2013.

11. Mr IP Kwok-him considered it necessary to form a subcommittee to study L.N. 49 and L.N. 50 in detail. Members agreed. The following Members agreed to join the subcommittee: Mr James TO, Ms Cyd HO and Mr IP Kwok-him.

12. The Chairman reminded Members that the deadline for amending these two items of subsidiary legislation was 15 May 2013, or 5 June 2013 if extended by a resolution of the Council.

V. Business for the Council meeting of 17 and 18 April 2013

(a) Tabling of papers

Report No. 14/12-13 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)943/12-13 issued vide LC Paper No. CB(3)484/12-13 dated 12 April 2013)

13. The Chairman said that the Report covered six items of subsidiary legislation, including the Import and Export (General) (Amendment) Regulation 2013 ("the Regulation"), the period for amendment of which would expire on 17 April 2013.

14. The Chairman further said that four Members had indicated their intention to speak on the Regulation. As the Administration and six Members had given notices respectively to move proposed amendments to the Regulation at the Council meeting, Members would have opportunities to speak on the Regulation. He would therefore not move, in his capacity as Chairman of HC, a motion at the Council meeting to take note of the Report in relation to the Regulation.

(b) Questions

(LC Paper No. CB(3)475/12-13)

15. The Chairman said that 22 written questions had been scheduled for the meeting.

(c) Bills - First Reading and moving of Second Reading

Stamp Duty (Amendment) Bill 2013

16. The Chairman said that the Administration had given notice to present the above Bill to the Council on 17 April 2013. HC would consider the Bill at its meeting on 19 April 2013.

(d) Bills - resumption of debate on Second Reading

Appropriation Bill 2013

17. The Chairman informed Members that in accordance with Rule 36(5) of the Rules of Procedure, the speaking time limit for each Member at the debate was 15 minutes.

(e) **Government Motion**

Proposed resolution under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Import and Export (General) (Amendment) Regulation 2013 to be moved by the Secretary for Food and Health

18. The Chairman said that the Subcommittee on the above Regulation had made a verbal report at the last HC meeting and its written report (LC Paper No. CB(2)942/12-13) was issued to Members on 10 April 2013. The Chairman further said that it was estimated that the debate on the above proposed resolution would start at around 12:00 noon on Thursday, 18 April 2013 at the earliest after Members had spoken on the Appropriation Bill 2013.

VI. Business for the Council meeting of 24 April 2013

(a) **Questions**

(LC Paper No. CB(3)474/12-13)

19. The Chairman said that 22 written questions had been scheduled for the meeting.

(b) **Bills - First Reading and moving of Second Reading**

(i) **Arbitration (Amendment) Bill 2013**

(ii) **Merchant Shipping (Seafarers) (Amendment) Bill 2013**

(iii) **Betting Duty (Amendment) Bill 2013**

(iv) **Inland Revenue (Amendment) Bill 2013**

20. The Chairman said that the Administration had given notices to present the above four Bills to the Council on 24 April 2013. HC would consider these Bills at its meeting on 26 April 2013.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

Appropriation Bill 2013

21. The Chairman said that the Administration would respond to Members' comments on the Appropriation Bill 2013.

(d) **Government motions**

- (i) **Proposed resolution under section 72A(10) of the Road Traffic Ordinance (Cap. 374) and section 4(3) of the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) to be moved by the Secretary for Transport and Housing**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)477/12-13 dated 11 April 2013)

(LC Paper No. LS38/12-13)

22. At the invitation of the Chairman, LA said that the proposed resolution served mainly to introduce technical amendments to rectify the references to certain scheduled traffic offences in the Schedule to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) and Schedule 11 to the Road Traffic Ordinance (Cap. 374), so as to tally with the relevant offences under the respective amended bylaws of the Eastern Harbour Crossing Road Tunnel, Tate's Cairn Tunnel, Western Harbour Crossing and Tai Lam Tunnel and Yuen Long Approach Road. According to the Administration, the proposed amendments would come into operation on 26 April 2013 if the proposed resolution was passed by the Legislative Council ("LegCo") at the Council meeting of 24 April 2013.

23. Mr WU Chi-wai considered it necessary to form a subcommittee to study the proposed resolution in detail. Members agreed. Mr Frankie YICK and Mr WU Chi-wai agreed to join the subcommittee.

24. The Chairman said that in line with established practice and the arrangement agreed with the Administration, HC would request the Administration to withdraw its notice for moving the proposed resolution so as to allow sufficient time for the subcommittee to scrutinize the proposed resolution.

- (ii) **Proposed resolution under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) to be moved by the Secretary for Food and Health**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)478/12-13 dated 11 April 2013)

(LC Paper No. LS36/12-13)

25. At the invitation of the Chairman, LA said that the proposed resolution was for seeking LegCo's approval of the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2013 and the Poisons List (Amendment)

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(No. 2) Regulation 2013 to add two substances to Divisions A of the First and Third Schedules to the Pharmacy and Poisons Regulations and Division A of Part I of the Schedule to the Poisons List Regulations. LA further explained that following the addition of these substances to the principal Regulations, the sale, supply, labelling and storage of these substances would be subject to different levels of control under the Pharmacy and Poisons Ordinance (Cap. 138). The Amendment Regulations, if approved by LegCo, would come into operation on the day of their publication in the Gazette.

26. Members did not raise any objection to the Administration moving the above proposed resolution at the Council meeting of 24 April 2013.

27. The Chairman informed Members that the Secretariat had received a large number of Committee Stage amendments proposed by Members to the Appropriation Bill 2013. He invited Members to reserve their time for the Council meeting commencing on 24 April 2013.

Report of HC on Consideration of Subsidiary Legislation

28. The Chairman invited Members to note the list containing seven items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 24 April 2013. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 16 April 2013.

VII. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2)933/12-13*)

29. The Chairman informed Members that as at 11 April 2013, there were six Bills Committees, four subcommittees under HC (i.e. one subcommittee on subsidiary legislation, one subcommittee on policy issues and two subcommittees on other Council business) and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues under Panels were on the waiting list.

30. The Chairman further invited Members to note that the Bills Committee on Stamp Duty (Amendment) Bill 2012 would have to work beyond three months since commencement of its work.

VIII. Senior judicial appointments

(Director of Administration's letter dated 8 April 2013 issued to Members on 8 April 2013)

31. The Chairman said that the Chief Executive had announced on 8 April 2013 of his acceptance of the recommendations of the Judicial Officers Recommendation Commission to appoint:

- (a) the Honourable Mr Justice Joseph Paul FOK as a Permanent Judge of the Court of Final Appeal ("CFA");
- (b) the Honourable Mr Justice Patrick CHAN Siu-oi as a non-permanent Hong Kong judge of CFA; and
- (c) the Honourable James Spigelman and the Honourable William Gummow as non-permanent judges from other common law jurisdictions of CFA.

32. The Chairman further said that in accordance with the procedure for endorsement of appointment of judges by LegCo, which was recommended by the Panel on Administration of Justice and Legal Services and endorsed by HC, it was for HC to decide whether it was necessary to form a subcommittee to consider the recommended appointments.

33. Ms Emily LAU considered it necessary to form a subcommittee to consider the recommended appointments. Members agreed. The following Members agreed to join the subcommittee: Mr Albert HO, Mr James TO, Ms Emily LAU, Dr Priscilla LEUNG, Mr LEUNG Kwok-hung and Mr Dennis KWOK.

34. The Chairman said that the Administration would move motions to seek LegCo's endorsement of the recommended appointments after the subcommittee had reported its deliberations to HC.

IX. Any other business

35. There being no other business, the meeting ended at 2:49 pm.